

Docket:	:	<u>A.09-02-019</u>
Exhibit Number	:	<u> </u>
Commissioner	:	<u>Michael R. Peeve</u>
Admin. Law Judge	:	<u>Maryam Ebke</u>
DRA Project Coor.	:	<u>Mary Jo Stueve</u>
	:	<u> </u>



**DIVISION OF RATEPAYER ADVOCATES
CALIFORNIA PUBLIC UTILITIES COMMISSION**

**REBUTTAL TESTIMONY OF DIVISION OF RATEPAYER
ADVOCATES TO JOINT SUBMISSION OF PACIFIC GAS AND
ELECTRIC COMPANY AND THE JOINT SOLAR PARTIES OF
FORM POWER PURCHASE AGREEMENT (PPA)**

A.09-02-019

San Francisco, California
September 2, 2009

1 **1. INTRODUCTION**

2 The following Division of Ratepayer Advocates’ (DRA) rebuttal testimony
3 by witness Mary Jo Stueve addresses issues raised relating to the Joint Submission
4 of Pacific Gas and Electric Company and the Joint Solar Parties (Joint
5 Submission) of Form Power Purchase Agreement for greater than 3 to 20
6 megawatt PV projects (Large Project PPA). Section A covers discrepancies
7 between the Joint Submission Testimony and the Large Project PPA on contract
8 pricing; while Section B addresses concerns related to PG&E’s and the Joint Solar
9 Parties’ ‘stipulation’ that “...the Large Project PPA is just and reasonable.”¹

10 **A. PG&E’s Solar PV Fixed Price Large Project PPA:**
11 **Unclear and Premature**

12 On August 21, 2009 PG&E and the Joint Solar Parties filed a Joint
13 Submission Form Power Purchase Agreement stipulating to changes made on a
14 previously submitted Form PPA by PG&E on June 19, 2009. DRA has many
15 concerns with the Large Project PPA, which it will address more fully in hearings
16 upon cross-examination. However, one discrepancy requires addressing now.

17 On page two of the Joint Submission Testimony, item number one, PG&E
18 and the Joint Solar Parties ‘agree’ to “...all of the non-pricing terms of the Large
19 Project PPA...[while] contract pricing and the process of soliciting PPAs are
20 outside the scope of this stipulation.” However, the Large Project PPA attached to
21 the Joint Submission as Appendix A shows clearly the contract price and terms as
22 indicated below.²

¹ Joint Submission Testimony, p. 2, item number 5.

² Joint Submission Testimony, Appendix A, Article Four: Compensation; Monthly Payments (pp. 41-42).

ARTICLE FOUR: COMPENSATION; MONTHLY PAYMENTS

4.1 Contract Price.

The Contract Price for each MWh of Product as measured by Delivered Energy in each Contract Year shall be as follows:

Contract Year	Contract Price (\$/MWh)
1-20	\$246/MWh

4.2 TOD Periods.

The time of delivery periods ("TOD Periods") specified below shall be referenced by the following designations:

Monthly Period	TOD PERIOD		
	1. Super-Peak	2. Shoulder	3. Night
A. June - September	A1	A2	A3
B. Oct. -Dec., Jan. & Feb.	B1	B2	B3
C. Mar. - May	C1	C2	C3

4.3 TOD Factors and Monthly TOD Payment.

(a) TOD Factors. In accordance with all other terms of this Article Four, the Contract Price for Delivered Energy shall be adjusted by the following Time of Delivery Factors ("TOD Factors") for each of the specified TOD Periods in which Delivered Energy is delivered:

TOD FACTORS FOR EACH TOD PERIOD			
Period	1. Super-Peak	2. Shoulder	3. Night
A. June - September	2.20490	1.12237	0.68988
B. Oct. -Dec., Jan. & Feb.	1.05783	0.93477	0.76384
C. Mar. - May	1.14588	0.84634	0.64235

(b) Monthly TOD Payment. For each month, Buyer shall pay Seller for Delivered Energy in each TOD Period ("Monthly TOD Payment") the amount resulting from multiplying the Contract Price times the TOD Factor for the applicable TOD Period, times the Delivered Energy in each hour:

$$\text{Monthly TOD Payment} = \sum_{\text{hour}=1}^{\text{h}} \text{Contract Price\$} * \text{TOD Factor} * \text{Delivered Energy MW}_{\text{hour}}$$

While the Joint Submission Testimony indicates that contract pricing is "outside the scope of the stipulation;" the Large Project PPA, which PG&E and the Joint Solar Parties submitted, contradicts that by its inclusion of contract pricing and terms.

The stipulation is also premature in that no hearings on the application have been held and no factual or policy determinations have been made. Hearings on this case are set for September 10, 11 and 14, 2009. Determinations on the value of the proposed project along with the reasonableness of the costs, among other

1 things, will be made after those hearings. Since the Joint Submission seeks
2 approval of a contract required for a program that has not been fully vetted by the
3 Commission, it is premature. A corollary to this is the requirement that
4 settlements require Commission approval and, to the extent that this ‘stipulation’
5 looks to resolve a pending issue, it must also be rejected as not following
6 Commission rules. The Rules of Practice and Procedure, Rule 12.1 *et seq.*,
7 requires a proposed settlement to be presented to the Commission by written
8 motion and gives all parties the opportunity to comment on that proposal. Rule
9 12.3 allows for a hearing when a proposed settlement presents contested issues of
10 fact. None of these procedural protections were followed here.

11 DRA thus strenuously objects to the stipulation on the basis that it purports
12 to set contract pricing and terms and resolve issues prematurely.

13 **B. It is up to the Commission to determine ‘just and**
14 **reasonable’ not PG&E and the Joint Solar Parties**

15 DRA also notes that on page two of the Joint Submission, item number
16 five, PG&E and the Joint Solar Parties “agree[d] that the Large Project PPA is just
17 and reasonable...”. Simply saying something does not make it so, especially when
18 you have no authority to say it in the first place. Most parties not involved in this
19 case have raised concerns as to the high cost of PG&E’s Solar PV program and its
20 impact on ratepayers. For example, DRA noted in its Testimony and repeats here
21 that PG&E can meet its renewable energy goals with much cheaper alternatives,
22 consistent with the Commission’s least cost best fit (LCBF) procurement directive.
23 Either way, it is up to the Commission, not PG&E and the Joint Solar Parties, to
24 determine whether a proposal meets a determination of ‘just and reasonable’ in
25 order to pass on costs to ratepayers.³
26

³ California Public Utilities Code Section 451-467.